IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. NO. 560 of 1993
Date of Decision: 27.9.2006

New India Assurance Company Ltd.

..... Appellant

Versus

Parveen Kumari and others.

..... Respondents

Coram: Hon'ble Mr.Justice Mahesh Grover

....

Present: Ms.Karnica Bhurjee,Advocate for Shri Deepak Suri,
Advocate for the appellant.
Shri P.S.Hundal, Advocate for respondent nos. 7 and 8.

....

Mahesh Grover,J.

In this appeal filed by the Insurance Company, the main challenge made to award dated 9.1.1993 of Motor Accident Claims Tribunal, Hoshiarpur (hereinafter described as `the Tribunal') passed in M.A.C.T. RBT Case No.104 of 25.7.1991/26.9.1991 is that liability to pay the compensation has wrongly been fastened on the appellant because the accident had taken place on 8.7.1990 and the insurance cover was issued on 7.7.1990 with the connivance of the insurance agent. The premium, according to the appellant, had, in fact, been deposited on 11.7.1990 and on the date of accident, there was no valid insurance policy. The appellant has also made grievance against the amount of compensation awarded to the

claimants.

I have heard learned counsel for the parties.

A perusal of the statement of RW3- Shri Krishan Chand Bassi, Branch Manager of the Insurance Company reveals that no cogent evidence was produced by the appellant in support of the plea that the insurance cover was obtained by fraud. Undeniably, the insurance policy was also issued in pursuance to the cover note, which fact was tried to be explained away as being a routine matter. RW3 has not denied the fact that the cover note may have actually been issued on 7.7.1990. In view of the fact that there is no evidence on record to substantiate the plea of fraud as raised by the appellant, I do not find any reason to interfere with the finding recorded by the Tribunal on the said issue.

The next contention which has been raised by the appellant is qua the quantum of compensation awarded to the claimants. In a death case of a person, who was 35-40 years of age at the time of accident and is alleged to have been working as a driver, the monthly income has been taken as Rs.1500/- and the claimants' dependency has been assessed at Rs.1000/- per month. By applying the multiplier of `16', the Tribunal has awarded a sum of Rs.1,92,000/- along with interest at the rate of 12% per annum which was the prevailing rate of interest at that point of time. In view of this, the award of the Tribunal cannot be termed to be unreasonable and hence, I do not find any infirmity therein on this score.

On the basis of the above discussion, the appeal is devoid of any merit and is dismissed as such.

September 27,2006 (Mahesh Grover)
"SCM" Judge